

## **REMARKS**

In a Final Office Action mailed November 21, 2000, Claims 1, 4-8, 10, 13-20, 22-28, 36, 38 and 39 stood rejected under 35 U.S.C. §103(a) as being unpatentable over Schuegraf (U.S. Patent No. 5,849,644) and various combinations of Kirchhoff et al. (U.S. Patent No. 6,057,250), Homma (U.S. Patent No. 5,288,518) and Vassiliev (U.S. Patent No. 5,876,798). No claims are canceled or amended therefore Claims 1, 4-8, 10, 13-20, 22-28, 36, 38 and 39 remain pending in the above-referenced application.

The Schuegraf patent issued December 15, 1998, more than three months after the September 3, 1998 filing date of the instant application. Like the instant application, Schuegraf is assigned to Micron Technology, Inc. Pursuant to amended 35 USC §103(c) (which is effective for applications filed on or after May 29, 2000), Schuegraf is excluded as prior art under this revision as it only qualifies under §102(e). By and through the filing of this CPA, the examination of the instant application is governed by amended 35 USC §103.

Schuegraf is the fundamental reference for each of the rejections in the aforementioned Final Office Action. For each rejection, the Examiner alleges that Schuegraf teaches essentially all features of the rejected claims, for example the last sentence on page 2 of the Office Action states "Schuegraf is shown to teach all of the features of the claim with the exception of using ozone as one of the reactant gases." While Applicant disagrees with the

Examiner's allegation, with the required withdrawal of Schuegraf as prior art, such an allegation is moot. Further since it is inconceivable that any combination of the remaining references of record could teach or even that which the Examiner alleged Schuegraf taught, it follows that Claims 1, 4-8, 10, 13-20, 22-28, 36, 38 and 39 are in condition for immediate allowance. Action to this effect is earnestly sought.

Respectfully submitted,

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